WA 108/2007
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE (ACTING)
THE HON'BLE MR. JUSTICE B.P. KATAKEY

This appeal is directed against the judgment and order dated 26.2.2007 passed by the learned Single Judge in W.P.(C) No.5822 of 2006 whereby the writ petition filed by the appellant assailing the legality and validity of the letter dated 26.10.2006 issued by the General Manager, Construction, North Eastern Frontier Railways, rescinding the work order assigned to the appellant has been disposed of with direction to the petitioner to raise the dispute before the authority concerned for reference of the dispute to the arbitrator. It may be mentioned here that the works contract has been rescinded for alleged default on the part of the appellant in pursuance of the provisions of Clause 62 of the General Condition of Contract, 1988.

Aggrieved thereby, the appellant as writ petitioner filed the aforesaid writ petition. The learned Single Judge apparently dismissed the writ petition on the ground that the agreement entered into by the parties also includes a clause requiring any dispute to be referred to the arbitration for resolution. The learned Single Judge disposed of the writ petition with liberty to the appellant to raise dispute before the authority concerned who may in tern make necessary reference to the arbitrator as per arbitral clause.

We have heard Mr. G. Uzir, learned counsel for the petitioner and also Mrs. U. Chakraborty, learned counsel for the Railways. We have also considered the judgment under appeal and other relevant documents including the arguments made by the parties. There is no dispute at the Bar and it also appears from the materials on record that the parties are bound by the agreement to refer the dispute arising out of the works contract assigned to the appellant to the arbitration proceedings. We, therefore, find no material on record for interference with the judgment under appeal.

Consequent upon above observation, we dispose of this appeal with the observation that the appellant may within 30 days from today approach the authority concerned for making necessary reference to the arbitrator in accordance with the arbitration agreement and, on receipt of any such demand from the appellant, the authority concerned shall, within 15 days next, refer the matter to the arbitrator. Till the above period of six weeks, no action in pursuance of the direction of the learned Single Judge shall be initiated by the respondent authorities except the tender process which has been floated by the respondent authorities. The appellant, if he has submitted his tender documents in pursuance of the tender, would be entitled to consideration of his case for assignment of further works independent of the dispute relating to the earlier contract.